IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1923 OF 2007

Kelogs India Limited .. Petitioner
V/s
The Union of India & Ors. .. Respondents

Mr.A.Hidayatulla, Sr.Advocate with Advocates Mr.M.P.Joshi, Mr.Ricab Chand and Mr.Raji Radhakrishnan i/by M/s.India Law Alliance for the Petitioner.

Mr.S.A.Rao for the Respondents.

CORAM : DR.S.RADHAKRISHNAN & V.C.DAGA, JJ.

DATE : 22nd March, 2007.

P.C.:

1. Heard the learned Counsel for the parties. Rule. Rule is made returnable forthwith. The learned Counsel for the Respondents waives service. By consent, matter is taken up for final hearing forthwith.

2. By this Petition, the Petitioner is challenging the order dated 21st February, 2007 passed by the Commissioner of Central Excise (Appeals). There is no dispute that the aforesaid order was passed without hearing the Petitioner at all. In view thereof, the learned Counsel for the Respondents does not object for quashing and setting aside the said order so as to enable the Commissioner of Central Excise (Appeals) to pass an appropriate order with regard to the pre-deposit waiver application, after hearing both sides.

3. In view thereof, the order dated 21st February, 2007

is quashed and set aside. Matter is remanded back to the Commissioner of Central Excise (Appeals) for hearing afresh the said pre-deposit waiver application. The Commissioner of Central Excise (Appeals) to pass an appropriate order after hearing both sides. Rule is made absolute in terms of the above.

(V.C.DAGA, J.) **(DR.S.RADHAKRISHNAN,J.)**